

**THOMAS K. GODFREY**  
**Assistant U.S. Attorney**  
**U.S. Attorney's Office**  
**James F. Battin U.S. Courthouse**  
**2601 Second Ave. North, Suite 3200**  
**Billings, MT 59101**  
**Phone: (406) 657-6101**  
**FAX: (406) 657-6989**  
**Email: Thomas.Godfrey@usdoj.gov**

**ATTORNEY FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**BILLINGS DIVISION**

<b>UNITED STATES OF AMERICA,</b>	<b>CR 17-90-BLG-SPW</b>
<b>Plaintiff,</b>	
<b>vs.</b>	<b>OFFER OF PROOF</b>
<b>STEVE JOAQUIN COLUNGO JR,</b>	
<b>Defendant.</b>	

The United States, represented by Assistant U.S. Attorney Thomas K. Godfrey, files the following offer of proof in anticipation of the change of plea hearing set in this case on July 12, 2018.

## **THE CHARGES**

The defendant, Steve Joaquin Colungo Jr., is charged by indictment in Count I with conspiracy to possess with intent to distribute methamphetamine, and in Count II with possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 846.

## **PLEA AGREEMENT**

There is a plea agreement in this case. Colungo will plead guilty to Count II of the indictment. The defendant also agrees to admit the forfeiture count of the indictment. The United States will move to dismiss Count I of the indictment at sentencing, if the Court accepts the plea agreement. The United States presented all formal plea offers to Colungo in writing. The plea agreement entered into by the parties and filed with the Court represents, in the government's view, the last and most favorable offer extended to the defendant. *See Missouri v. Frye*, 566 U.S. 134 (2012).

## **ELEMENTS OF THE CHARGES**

In order for Colungo to be found guilty of Count II, possession with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1), the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly possessed methamphetamine; and

Second, the defendant possessed it with the intent to distribute it to another person.

Additionally, while not a formal element of the offense, the government must prove beyond a reasonable doubt that the defendant possessed with the intent to distribute at least 50 grams of actual methamphetamine.

### **PENALTIES**

Count II of the indictment carries a mandatory minimum penalty of ten years imprisonment, a \$10,000,000 fine, at least five years of supervised release, and a \$100 special assessment.

### **ANTICIPATED EVIDENCE**

If this case were tried in United States District Court, the United States would prove the following:

On April 25, 2016 while conducting an investigation into Thomas Smith and Duane Smith law enforcement encountered Steve Colguno at the Residence Inn Marriott at 956 S 25th St. West, Billings MT. A search warrant was issued for hotel rooms #410, #412, and #416. Steve Colungo and Desirae Savelkoul were found in room #410. Approximately \$27,120 in currency was found in the room with Colungo. In his vehicle 169.5 grams of pure methamphetamine was located. On his cellular phone were text messages arranging a methamphetamine

transaction between him and Duane Smith on April 25 as well as suspected other methamphetamine transactions between the two of them.

DATED this 11th day of July, 2018.

KURT G. ALME  
United States Attorney

/s/ Thomas K. Godfrey  
THOMAS K. GODFREY  
Assistant U.S. Attorney